SUPREME COURT OF THE UNITED STATES.

No. 261.

THE UNITED STATES, APPELLANTS,

vs.

JOHN McDONOGH.

APPEAL FROM THE DISTRICT COURT, U. S., FOR LOUISIANA.

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GIDEON, Printer.

United States district court, eastern district of Louisiana. Sitting in chancery.

JOHN McDONOGH
vs.
THE UNITED STATES. } No. 24.

Be it remembered, that heretofore, to wit, on the sixth day of June, being the May term, A. D. 1846, of the said court, John McDonogh, by his solicitor, C. Roselius, esquire, came into the office of the clerk of said court, and filed his petition, which is in the words and figures following, to wit:

To the honorable Theodore H. McCaleb, judge of the United States district court, for the eastern district of Louisiana.

The petition of John McDonogh, residing in the parish of Orleans, respectfully represents, that on the 24th of October, 1803, Don Louis De Clouet, in his own name, and in behalf of his brother, Don Alexandre De Clouet, presented two petitions to Don Juan Ventura Morales, then the intendant general of the province of Louisiana and West Florida, praying to be permitted to purchase, at a fair estimated price, two tracts of land, one of fifty thousand superficial arpens, and the other of forty thousand superficial arpens, belonging to the King of Spain, and forming part of the domain; the first of said tracts of land being situated on the east bank of the river Boque Chito, in West Florida, beginning at the line of demarcation and running down said river as per plat; and the second tract is situated on the west bank of the river Tauchipaho, in West Florida, beginning at the line of demarcation, and running down said river as per plat. And your petitioner further represents, that after a strict compliance with all the preliminary and intermediate steps and formalities required by the laws of Spain in such cases, the said two tracts of land were sold and granted to said Louis and Alexandre De Clouet by said intendant general, to wit, the grant for fifty thousand arpens, on the 9th and 15th days of November, 1803; and the grant for forty thousand arpens, on the 16th of November, 1803; and Don Carlos Trudeau, the surveyor general, was ordered to survey said tracts of land; that said surveys were duly made, and the plats of survey were duly returned to the intendency; and the price to be paid for said lands was established by valuation or appraisement, in conformity to the laws then in force; and said price was paid by the said purchasers and grantees, and they were duly put in possession of said tracts of land. And your petitioner further represents, that afterwards, to wit, on or about the twenty-ninth of May, 1804, and on the 20th February, 1805, the sales of land, made as aforesaid, were confirmed and ratified by the King of Spain; all of which, together with other necessary particulars, will more fully appear from the annexed documents, marked B No. 1, a; B No. 1, and B No. 2,

made part of this petition; that on or about the 6th of March, 1806, said Louis De Clouet and Alexandre De Clouet, sold said ninety thousand superficial arpens of land to your petitioner, as will more fully appear, together with all other necessary particulars from the annexed duly certified copy of the deed of sale, marked B No. 3, made part of this petition. And your petitioner further represents, that the metes and bounds of said land, its location and description, appears more particularly by reference to the two plans and surveys thereof, included in the annexed two documents marked B No. 1, a, and B No. 1. And your petitioner further represents, that his said titles were duly presented and proved before the board of land commissioners, whose decision was adverse to the claim of your petitioner; that the whole of said tracts of land, or the greater part thereof have either been sold by the United States, or confirmed to actual settlers; that he cannot and does not contest the title of those who are in possession of said tracts of land under the sales and confirmations aforesaid.

Wherefore, your petitioner respectfully prays, that the district attorney of the United States, for the eastern district of Louisiana, may be cited to appear and answer this petition; that the validity of the titles of your petitioner to the before described land be inquired into and decided by this court; that after due proceedings had, judgment be rendered in favor of your petitioner, decreeing and recognising that the titles of your petitioner to the before described tracts of land, making in all ninety thousand superficial arpens, is good and valid, and that your petitioner is entitled to enter a like quantity of land in lieu of such as has been sold and confirmed as aforesaid, according to the provisions of the act of Congress in such cases made and provided. And your petitioner prays for all such other and further aid, relief, and remedy, as the nature of his case may require, and to law and equity may appertain. And, as in duty bound, he will ever pray, &c.

(Signed) C. ROSELIUS.

John McDonogh, the petitioner, being duly sworn, deposes and says, that all the facts and allegations in the foregoing petition contained, are correct and true to the best of his knowledge and belief.

(Signed) JOHN McDONOGH.

Sworn to and subscribed before me this 6th June, 1846.

(Signed) J. E. SIMONDS, *D'y Cl'k.*

Exhibit marked "B, No. 1," (made part of the foregoing petition,) purporting to be the original grant of 50,000 arpents of land to L. and A. De Clouet; which document is in the words and figures following, to wit:

D'n Juan Ventura Morales, contador pral. de exercito, intendente interino de real hacienda, superintendente subdelegado juez, de arribadas de tierras, and solares realengos, por S. M. ———.

Al Sor. Don Carlos de Grandpré, coronel de los reales extos., gober-

nador militar y politico del distrito de Baton Rouge, y subdelegado de real hacienda en el; participo como en mi tribunal se presento el capitan D'n Luis De Clouet. pretendendo se le vendiese por la r'l haz'da cincuenta mil arpanes de tierra planos de los que haya vacantes, y realengos en ese distrito, y habiendose substanciado a el efecto el expediente actuado sobre el particular con audiencia de la parte fiscal, provehi auto en quince del corriente que su tenor, con el de el expediente que se inserta es el siguiente.

Peticion.

S'or intendente: D'n Luis Declouet, capitan ds los reales extos., y comandante de las milicias de Sn. Bernardo, por mi, y por el capitan de milicias, D'n Alexandro Decluet, mi legitimo hermano, por quien presto voz, y caucion, con el devido respecto paresco ante V. S. y digo, que me hallo informado se trata de vender por cuenta de la real hacienda las tierras qui se hallan realengas y vacantes en el distrito de Baton Rouge, y como necesitamos el dho. mi hermano, y yo de cierta porcion de ellas como hacendados que somos. Suplico á V. S. se sirva concederme venta de cincuenta mil arpanes por el precio de su estimacion, con la calidad de pagar un tercio de su importe de contado, otro tercio al plazo de seis meses, y otro al cumplimiento de un año, dando correspondientes seguridades; en cuya virtud, á V. S. suplico se sirva proveer como llevo pedido en que recivire merced.

LUIS DE CLOUET.

Neuva Orleans, 24 *de Octubre, de* 1803.

Deto.

Nueva Orleans, 9 *de Noviembre, de* 1803.

Si al tiempo en que se presentare en Baton Rouge, el despacho que resultase de este expte. hubiesen tierras vacantes, siendo la providencia que se estimen, y deslinden los cincuenta mil arpanes que se solicitan, se lo colacará y a efecto de determinar lo que corresponda, pongase por secretaria copia certificada del oficio dirigido por esta intendencia a los sres. comisarios de la entrega de esta provincia de resulta de la solicitud de comprar cincuenta mil arpanes, que hiso D'n Thomas Urquhart, y de la respuesta que dieron, y evacuada dese vista al sor. fiscal.

MORALES.

Ante mi, CARLOS XIMENES.

Not'on.

En el mismo dia, notifique al capitan, D'n Louis de Clouet, el det'o. antecedente; doy fe. XIMENES.

Copia del oficio.

Aunqe por essistir la declaratoria que hisieron V.S.S., en el bando publicado en 18 de Mayo anterior, sobre que en la cecion de esta provincia a la Republica Francesa, no entraba el territorio que media desde el bayu o estero de Iberville, hasta el punto de la linea, en que principian las posceciones Americanas, podria dar curso a la instancia que

me ha presentado Dn. Tomas Urquhart, pidiendo se vendan cincuenta mil arpanes de tierra, de las que se hallen vacantes y realengas en el distrito Baton Rouge, baxo las conditiones que establese sin rezseto de que formase quexa el gobierno Frances sin embargo, considerando que el punto, y á por las conexiones que tenga con las maximas politicas del estado, y á por otros motivos que se ocurren à mis canosimientos, puede ofrecer obstaculo, y dificultades por las que son tal vez mas prudente declarar sin lugar la solicitud, que el que la real hacienda consiga el benficio que pueda resultarle de acceder al la demanda, he juzgado conveniente remitir al. V.S.S., la citada instancia para que sirviendose manifestarme su opinion me sirva de norte, y pueda asegurarse el acierto en la determinacion que conciliando las utilidades del mejor servicio con las necesidades de estas reales caxas, y el fomento de aquella parte de los dominios del Rey, paresca mas conveniente tomar. Dios gue. al V.S.S. ms. as.

JUAN VENTURA MORALES.

Sres. Dn. Manuel De Salcedo, and
Marquis De Casa Calvo.

Copia de la repu'ta.

La declaratoria que hicimos en el bando publicado en 18 de Mayo ultimo, esta fundada el el derecho de conquista por el qual la España se apodero y tomo de los Ingleses en la guerra del año de 80, los establecimientos de Natchez y Baton Rouge, conserbando actualmente este, y por lo tanto no comprehendido en el distrito de la Luisiana, unica parte que devemos, segun nuestras instrucciones retroceder a la republica Francesa, en cuyo concepto, siendo aquellos terrenos propios de S. M. prodra V., en uso de sus facultades determinar sobre el asunto siendo nuestra opinion que respecto promete la solicitud de Don Tomas Urquhart, utilidad á los reales intereses, fomento a la poblacion, y agricultura, circumstancias de intidad, y digna de atencion la primera por la escases en que se hallan en el dia esta reales caxas puede ser admitiba la proporcion, sin que halla motivo que preste reselo a verificar el asunto bajo las demas formalidades establecidas por la intendencia; con lo que dejamos contestado el papel que se sirvio V. dirigimos en 22 del corriente.—Ntro. Sor. gue. à V. ms. as.

SALCEDO.
EL MARQUES DE CASA CALVO.
SOR. DON JUAN VENTURA MORALES.

Nueva Orleans, 28 *de Julio, de* 1803.

Es copia de lo que queda en estos archivos de mi cargo, de que certifico como secretario por S. M. de esta intendencia, y en virtud del anterior decreto de esta fecha. En la Nueva Orleans, a 9 de Noviembre, de 1803.

CAYETANO VALDEZ.

Peticion fiscal.

El fiscal de real hacienda enterado de la solicitud que hase Don Luis de Clouet, sobre que las tierras realengas que hay vacantes se le beneficien por la real hacienda, en nombre suyo, y de su hermano Don Alexandro, cincuenta mil arpanes en el distrito de Baton Rouge, ofreciendo pagar su justa tazacion un tercio de contado, otro en seis meses, y el ultimo en un año desde la fecha de la venta dando las seguridades correspondientes, dico: que resultando utilidad al real herario en que se acceda a dha. solicitud, juzga el fiscal conveniente se adhiera á ella y que se dé la orden al sor. comandante del citado distrito para que nombre dos habitantes expertos, que con otros dos que señalen los compradores, procedan a la estimacion, apeo, y deslinde de los referidos cincuenta mil arpanes, y evacuados estas diligencias con las debida solemnidad, se remitan á este tribunal para que se les expida el titulo competente baxo las conditiones que proponen. El tribunal sin embargo resolverá lo que crea mas arreglado á justicia que pide el fiscal.

GILBERTO LEONARD.

Nueva Orleans, 11 *de Noviembre, de* 1803.

Deto.

Nueva Orleans, 14 *de Noviembre, de* 1803.

Pongase a continuacion testimonio del decreto con que se pasó á la consulta del sor. asesor del gobierno, y auditor de guerra de esta provincia, el expediente promovido, por Don Tomas Urquhart, sobre que se le vendiesen cincuenta mil arpanes de tierra en el distrito de Baton Rouge, y el dictamen que estendio en consequencia, y traigase.

MORALES.

Ante mi, CARLOS XIMENES.

Particion.

En el mismo dia, participe el decreto antecedente al sor. fiscal de real hacienda, doy fe. XIMENES.

Notificacion.

En el mismo, lo notifique al Capitan Dn. Luis de Clouet, doy fe.

XIMENES.

Auto.

Vistos: y que segun lo prevenido en el articulo ochenta y uno de la real ordenanza de intendentes de Nueva España, mandada obserbar en esta provincia a las causas sobre ventas, compocisiones, y repartimientos de tierras realengas deben substanciarse con citacion fiscal, y dictamen de los asesores ordinarios de las intendencias no habiendolo en esta provincia por haber fallesido el Sor. Licenciado Dn. Manuel Serrano, presediendo recando politico de escrito pase este expediente al Sor. Dor. Dn. Nicolas Maria Vidal, teniente gobernador y auditor de guerra de esta dha. provincia, para que si lo tiene abien se sirva consultar lo que le ocurra. MORALES.

Proveyolo el Sor. Don Juan Ventura Morales, contador pral. de exto. intendente interino de real hacienda de las provincias de la Luisiana y Florida occidental, subdelegado de la superintendencia gral., que lo firmo en la Nueva Orleans, á seis de Agosto, de mil ochocientos tres. CARLOS XIMENES.

Dictamen.

Sor. Intendente General: En vista de lo que han informado sobre este expediente los sres. gobernador y Marques de Casa Calvo, comisarios nombrados por el rey para la entrega de esta provincia de la Louisiana á la republica Francesa, y lo expuesto por el sor. fiscal de real hacienda, me parece que puede V. acceder á la solicitude de Dn. Tomas Urquhart, en orden á que se le vendan cincuenta mil arpanes de las tierras que hay vacantes y realengas en el distrito de Baton Rouge, para formar un establecimiento de cierto numero de familias, con la calidad de satisfacer el tercio de su importe de contado, otro tercio en seis meses, y el restante al plazo de un año, dando las seguridades necessarias; y que, en consequencia se mande librar para las correlativas diligencias el despacho que propone el dho. sor. fiscal en los terminos, y con las formalidades que expresa; pero con la prevencion de que las familias que hayan de cituarse en las referidas tierras seande la aprobacion del gobierno, y con su conocimiento obserbandose las reglas prescritas por S. M. en las reales ordenes de la materia para la admision de nuevos colonos V. sin embargo, resolvera lo que juzgan mas ascertado y conveniente. Nueva Orleans, nueve de Agosto, de mil ochocientos tres. NICOLAS MARIA VIDAL.

Es conforme a sus originales á que me remito. Nueva Orleans, á quinze de Noviembre, de mil ochocientos tres.
Signado, CARLOS XIMENES.

Auto.

Vistos: livrese el despacho que expresa el sor. fiscal en presedente representacion, con las incerciones convenientes, para que se verifique el apeo y aprecio de los cincuenta mil arpanes planos de tierra que solicita comprar el Capitan Dn. Luis de Clouet, en el parage en que esten vacantes en el distrito de Baton Rouge; y evacuado entreguesele para su presentacion al sor. gobernador y subdelegado de dho. distrito, el Sor. Coronel Dn. Carlos de Grandpré, de cuyo se espera el pronto despacho, obserbando lo prevenido en primer deto. de este expediente de nueve del corriente. JUAN VENTURA MORALES

Proveyolo el Sor. Dn. Juan Ventura Morales, contador pl. de exto., intendente interino de real hacienda de las provincias de la Luisiana y Florida occidental, que lo firmo en la Nueva Orleans, á quince de Noviembre, de mil ochocientos tres. CARLOS XIMENES.

Part'on.

En el mismo dia, participe el auto antecedente al sor. fiscal de real hacienda, doy fe. XIMENES.

Notificacion.

En el propio lo notifique al Capitan Dn. Luis de Clouet, doy fe.
XIMENES.

Como cousta y parece del expediente original, que queda en el oficio de real hacienda, a que merrefiero; y para que se le de su complim'to, mande librar el pres'te, Nueva Orleans, dies y siete de Nov're, de mil ochocientos tres.

(Signed) JUAN VENTURA MORALES.

Perm'do del sor. intend'te.

(Signed) CARLOS XIMENES.

(For map see original, page 12.)

I, Charles Laveau Trudeau, late surveyor general of his Catholic Majesty in Louisiana, certify, at the demand of Mr. John McDonough, of this city, that the annexed plan of survey of fifty thousand arpens of land, is a true copy of the original delivered by me in the month of February, in the year one thousand eight hundred and four, at the office of the Spanish intendant, Don John Ventura Morales, in this city. That said land lies on the east bank of the river Boque Chito, in West Florida, beginning at the line of demarcation, and running down said river as per plot. That said lands were surveyed, marked, and bounded, in the months of November and December, 1803, for Messrs. Lewis and Alexander De Clouet, who were then put in possession of them, the whole having been executed in conformity to the grant made them, and order of survey given by the Spanish intendant, Don John Ventura Morales. That said lands were estimated by four persons, two of whom were named by me on the part of the King, and two others on the part of the Messrs. De Clouet, at the price of three cents per superficial arpent, and that I received from Messrs. Lewis and Alexander De Clouet in money the full amount of my fees as surveyor general for surveying said lands, making plats, &c., &c.

New Orleans, September 14th, 1814.

(Signed) CARLOS TRUDEAU.

LOUISIANA.

Recorded in the office of the clerk to the commissioner of land claims west of Pearl river and east of the Mississippi, in lib. F, No. 1, fol. 433, &c.

(Signed) CHARLES S. COSBY, *Cl'k.*

LOUISIANA.

Recorded in the office of the clerk to the commissioner of land claims west of Pearl river and east of the Mississippi, in lib. F, fol. 386, &c.

(Signed) CHARLES S. COSBY, *Cl'k.*

(*Translation of the foregoing document marked "B No. 1."*)

Don Juan Ventura Morales, principal accountant for the armies, intendant pro tempore of the royal treasury, superintendant, sub-delegate, judge of arrivals, and of lands, and royal possessions, by his majesty.

I inform Don Carlos De Grand Pre, colonel of the royal armies, governor, civil and military, of the district of Baton Rouge, and sub-delegate of the royal treasury therein, that the captain, Don Louis De Clouet, did apply to my tribunal, praying that the royal treasury would sell to him fifty thousand superficial arpens of land, out of those which are vacant and belonging to the king in that district, and the proceedings concerning this demand, having been reduced into a summary, and with the advice of the solicitor for the crown, I did issue on the fifteenth instant, a decree, the tenor of which, and that of the petition, are as follows:

Petition.

To the Intendent: I, Don Louis De Clouet, captain of the royal armies, and commander of the militia of Saint Bernard, for myself, and for the captain of the militia, Don Alexander De Clouet, my lawful brother, for whom I am security, with due respect appear before you and say, that I am informed you intend to sell, for the account of the royal treasury, the lands belonging to the king, which are vacant in the district of Baton Rouge, and as my said brother and myself are desirous of acquiring a certain portion thereof, as owners and proprietors, I pray your excellency to decree and grant us the sale of fifty thousand arpens, for the price at which said land may be valued, payable the one-third part of the amount in cash down, one other third part at six months credit, and the last third part at the expiration of one year, giving the necessary sureties. I, therefore, in consequence pray your excellency to grant this my petition, which will be considered a favor conferred on me.

New Orleans, October 24th, 1803.

(Signed) LOUIS DE CLOUET.

Grant.

New Orleans, *November* 9, 1803.

If at the time on which the proceedings that shall take place on the present subject shall be presented at Baton Rouge, there should be vacant lands, it is ordered that the fifty thousand arpens petitioned for shall be appraised, and the limits and bounds for the same be marked, and the petitioner be put in possession thereof. And in order to determine what shall be proper, let the secretary insert hereinafter, a certified copy of the official letter written by me to the commissioners for the transfer of this province, in consequence of the application made by Don Thomas Urquhart for the purchase of fifty thousand arpens of

land, and of the opinion and answer of said commissioners thereon, and after that is done let the solicitor of the crown give his opinion.

(Signed) MORALES.

Before me.

(Signed) CARLOS XIMENES.

Notification.

On the same day I notified Don Louis De Clouet of the preceding decree, which I attest.

(Signed) XIMENES.

Copy of the official despatch.

Though, in consequence of the declaration made by you, in the proclamation published on the 18th of May last, that in the cession of this province to the French republic the territory which extends from the river of Iberville to the line where the American possessions begin, was not included, and did not form a part of said cession, I could give course to the petition presented to me by Don Thomas Urquhart, praying that fifty thousand arpens of land, out of those which are vacant, and belonging to the King, in the district of Baton Rouge, should be sold to him, under the conditions proposed by him, without any apprehension, on my part, that the French Government would complain of it. Notwithstanding, considering that this point, either on account of the connection it may have with the political principles of the State, or on account of other motives unknown to me, might occasion trouble and difficulties, and consequently it might be rather more prudent not to grant the request, than the royal treasury should obtain the advantage which might result to it by acceding to the request. I have deemed it, therefore, proper to transmit to you the said petition, in order that you may inform me of your opinion, which shall guide and enable me to take a correct decision, which, conciliating the advantages of the better service of the King with the wants of the royal coffers, and the prosperity of that part of the domains of the King, may appear most proper. May God preserve you many years. New Orleans, July 22d, 1803.

(Signed) JUAN VENTURA MORALES.

To Messrs. Don Manuel de Salcedo and the Marquis de Casa Calvo.

Copy of the opinion and answer.

The declaration made by us, in the proclamation published on the 18th of May last, is based on the right of conquest, by which Spain took from England, in the war of the year seventeen hundred and eighty, the establishments of Natchez and Baton Rouge, keeping still in her power the latter, which for that reason is not included in the district of Louisiana, the only part which, conformably to our instructions, we are to retrocede to the French republic. In consequence of which, the said lands being the property of his Majesty, you may, by virtue of your powers, act and determine on the subject. Our opinion

being that, as the demand of Don Thomas Urquhart promises advantages to the royal interests, and encouragement to the population and agriculture—two considerations of great importance and worthy of attention; the former, on account of the actual scantiness of the royal coffers, the proposal may be accepted without any cause of apprehension, in complying with the application and agreeably to the other formalities established by your tribunal. This is our answer to the official letter which you did address to us on the 22d instant. May the Lord preserve you many years. New Orleans, July 28th, 1803.

(Signed) MANUEL DE SALCEDO.

The Marquis de Casa Calvo—To Don Juan Ventura Morales.

Attestation of the secretary of the tribunal of the intendency.

I, the secretary, appointed by his Majesty for the tribunal of this intendency, do certify, in obedience to the foregoing decree, issued on this day, that the above and foregoing documents are true copies of those remaining in the archives, committed to my charge.

New Orleans, November the 9th, 1803.

(Signed) CAYETANO VALDEZ.

Opinion of the Fiscal or Attorney General.

The Attorney General of the royal treasury, well informed of the demand of Don Louis de Clouet, that out of the lands belonging to the King, which are vacant, the royal treasury will be pleased to sell to him and his brother, Don Alexander, fifty thousand arpents, in the district of Baton Rouge, offering to pay their just appraised value, as follows: say, the one-third part thereof in cash down; one other third part in six months; and the last third part in one year, from the date of the sale, giving the necessary securities; gives, as his opinion and says, that as it will be advantageous to the royal treasury to adhere to the said demand, he therefore recommends that the same should be granted, and that the commanding officer of said district be ordered to appoint two notable inhabitants, who, together with other two, who shall be appointed by the purchasers, shall proceed to appraise, measure, and mark the bounds of the said fifty thousand arpents of land; and after those formalities have been fulfilled, with all the solemnity required, the minutes of all said proceedings must be transmitted to this tribunal, in order that a regular title may be delivered to them under the conditions which they proposed. The tribunal, however, will determine, in its wisdom, that which it will deem most conformable to justice, which is the wish and desire of the attorney general.

New Orleans, November 11th, 1803.

(Signed) GILBERTO LEONARD.

Decree.

NEW ORLEANS, *November 14th*, 1803.

Let a certified copy of the decree, by virtue of which the demand of Don Thomas Urquhart, for purchasing fifty thousand arpents of land,

in the district of Baton Rouge, was sent to the assessor for the government and auditor of war, (the grand judge,) for consultation, be hereinafter inserted, as also the opinion given thereon, and after that is done, let the whole proceedings be brought to me.

(Signed) MORALES.

Before me. CARLOS XIMENES.

Notification.

On the same day, I notified the preceding decree to the attorney general of the royal treasury, which I attest.

Signed, XIMENES.

Notification.

On the same day, I notified the same to the captain, Don Louis De Clouet, which I attest.

Signed, XIMENES.

Decree.

As it is prescribed by the eighty-first article (81st art.) of the royal ordinance, for the intendants of New Spain, which ordinance is commanded to be observed in this province, touching and concerning the sales, adjustments, and distributions of lands belonging to the King, to proceed, with the advice of the solicitor for the crown, and according to the opinion of the ordinary assessors of the intendant's tribunal, and as there are no assessors in this province, since the death of the licenciate, Don Manuel Serano, let a polite request, according to the accustomed forms in use, with a copy of those proceedings, be transmitted to the doctor, Don Nicholas Maria Vidal, lieutenant governor, and auditor of war of this province, that he may have the goodness to advise whatever may appear to him the most proper on the subject.

Signed, MORALES.

The foregoing decree was issued by Don Juan Ventura Morales, contador principal of the armies, intendant pro tempore of the royal treasury of the province of Louisiana and West Florida, sub-delegate of the superintendency general, who did sign the same at New Orleans, this the 6th day of August, 1803.

(Signed) CARLOS XIMENES.

Opinion.

To the INTENDANT GENERAL.

SIR: In consequence of the declaration and opinion given on the subject matter by the governor and the Marquis De Casa Calvo, commissioners appointed by the King for the transfer of this province of Louisiana, to the French republic, and of the opinion, and what has been said by the attorney general of the royal treasury, my opinion is, that you may acceed to the demand of Don Thomas Urquhart, who prays, that fifty thousand arpens of land, out of those which are vacant and belong-

ing to the King, in the district of Baton Rouge, may be sold to him, in order to form an establishment of a certain number of families, under the condition of paying one-third in cash down, one other third in six months, and the remaining third in one year, giving the necessary securities; and that, in consequence, the order proposed by the attorney general, be issued for the requisite proceedings, on the terms and with the formalities expressed by said attorney general; as, also, under the condition that the families who are to be established on the said lands, shall meet the approbation and consent of the government, and observe and comply with the rules prescribed by his Majesty, in the royal orders on this subject, for the admission of new inhabitants. However, it is for you to decide, and order whatever you conceive most correct and proper on the subject.

Signed, NICHOLAS MARIA VIDAL.

The foregoing is a true copy of the originals, to which I refer.

Signed, CARLOS XIMENES.

New Orleans, November 15th, 1803.

Decree.

Let the order expressed by the attorney general in the preceding representation, be issued with the necessary insertions, in order to execute the measurement and appraisement of the fifty thousand superficial arpens of land, which the captain, Don Louis De Clouet, requests to purchase, in the place where said land may be vacant, in the district of Baton Rouge; and after that is done, let the whole proceedings be delivered unto him, that he may present the same to the governor and sub-delegate of the said district, the colonel, Don Carlos de Grandpré, from the zeal of whom, it is expected, that the matter will not be delayed in its execution, and done in conformity to what has been prescribed in the first decree in those proceedings, bearing date on the 9th instant.

Signed, JUAN VENTURA MORALES.

The foregoing decree was issued by Don Juan Ventura Morales, contador principal of the armies, intendent pro tempore of the royal treasury of the province of Louisiana and West Florida, who did sign the same at New Orleans, on the 5th day of November, 1803.

Signed, CARLOS XIMENES.

Notification.

On the same day, I notified the preceding decree to the attorney general of the royal treasury, which I attest.

Signed, XIMENES.

On the same day, I notified the same to the captain, Don Louis De Clouet, which I attest.

Signed, XIMENES.

The foregoing is from the original proceedings, which remain in the office of the royal treasury, to which I refer and attest; and that the same may be carried into execution, I have caused these presents to be delivered, at New Orleans, on this the 17th day of November, 1803.

Signed, JUAN VENTURA MORALES.

By mandate of this intendency.

Signed, CARLOS XIMENES.

Louisiana. Recorded in the office of the clerk to the commissioner of land claims, west of Pearl river, and east of the Mississippi, in lib. F, No. 1, fol. 386.

(Signed,) CHARLES S. COSBY, *Clerk.*

Certificate of Charles Laveau Trudeau under the plan; for the plan, see page 12 of this transcript.

Copy.

I, Charles Laveau Trudeau, late surveyor general of his Catholic Majesty, in Louisiana, certify, at the demand of Mr. John McDonogh, of this city, that the annexed plan of survey of fifty thousand arpens of land is a true copy of the original, delivered by me in the month of February, in the year one thousand eight hundred and four, at the office of the Spanish intendant, Don John Ventura Morales, in this city; that said land lie on the east bank of the river Boque Chito, in West Florida, beginning at the line of demarcation, and running down said river, as per plot; that said land were surveyed, marked, and bounded in the months of November and December, 1803, for Messrs. Lewis and Alexander Declouet, who were then put in possession of them; the whole having been executed in conformity to the grant made them, and order of survey given by the Spanish intendant, Don John Ventura Morales, that said land were estimated by four persons, two of whom were named by me on the part of the King, and two others on the part of the Messrs. Declouet, at the price of three cents per superficial arpen; and that I received from Messrs. Lewis and Alexander Declouet, in money, the full amount of my fees, as surveyor general, for surveying said land, making plots, &c., &c.

Signed, CARLOS TRUDEAU.

New Orleans, September 14th, 1814.

Louisiana. Recorded in the office of the clerk to the commissioner of land claims, west of Pearl river, and east of the *Missippi*, in lib. F, No. 1, fol. 386.

Signed, CHARLES S. COSBY, *Clerk.*

Exhibit marked "B, No. 1, a," made part of the petition, purporting to be the original grant of 40,000 arpents of land to L. & A. Declouet, which exhibit is in the words and figures following, to wit:

Senor Intendente: Don Luis Decluet, capitan de los reales extos. y commandante de las milicias de Señor Bernardo, por mi, y por

el capitan de milicias, Don Alexandro Decluet, mi legitimo hermano, por quien presto voz y caucion, con el devido respeto paresco ante V. S., y digo que me hallo informado se trata de vender por cuenta de la real hacienda las tierras que se hallan realengas y vacantes en el distrito de la Mobila hasta el rio Amit, y otros parages de su respectiva comprehension y como necesitamos el dicho mi hermano y yo de cierta porcion de ellas como hacendados que somos suplico a V. S., se sirva concederme venta de quarenta mil arpanes por el prede su estimacion con la calidad de pagar un tercio de su importe de contado, otro tercio al plazo de seis meses, y otro al cumplim'to de un año, dando las correspondientes fianza ; en cuya virtud á V. S. suplico se sirva proveer y mandar como llevio pedido en que recivire merced.

Nueva Orleans, 24 de Octubre, de 1803.

Signed, LUIS DE CLOUET.

NUEVA ORLEANS, 7 *de Nov're, de* 1803.

Pongase por secretaria copia certificada, del oficio dirigido por esta intendencia a los señores comisarios de la entrega de esta provincia de resultas de la solicitud de comprar cinquenta mil arpanes de tierras que hizo Don Thomas Urquhart, y de la respuesta, que dieron, y fecho, vista al Señor Fiscal.

Signed, MORALES.

Ante mi. Signed, CARLOS XIMENES.

En el mismo dia, yo, el ess'no, notifique al Capitan Don Luis Decluet el decreto antecedente, doy fé.

Signed, XIMENES.

En el propio dia, yo, el ess'no, pase este expediente a la secretaria de la intendencia, doy fé.

Signed, XIMENES.

Aunque por existir la declaratoria que hicieron V. S. S. en el bando publicado en 18 de Mayo, anterior sobre que en la cesion de esta provincia a la republica Francesa no entraba el territorio que media desde el bayu o estero de Iberville, hasta el punto de la linea en que principian las poseciones Americanas podria dar curso a la instancia que me ha presentado Don Tomas Urquhart, pidiendo se le vendan cinquenta mil arpanes de tierra, de las que se hallen vacantes y realengas en el distrito de Baton Rouge, bajo las condiciones que estableci ; sin receto de que formase queja el Gobierno Frances. Sin embargo considerando que el punto, ya por las conexiones que tenga con las maximas politicas del estado, ya por otros motivos que se oculten a mis conocimientos puede ofrecer obstaculos y dificultades, por las que sea talvez mas prudente declarar sin lugar la solicitud, que el que la real haz'da consiga el beneficio que pueda resultarlo de acceder a la demanda ; he juzgado conven'te remitir a V. S. S. la citada instancia para que sirviendose manifestarme su opinion, me sirva de norte, y pueda asegurarse el a

cierto en la determinacion que conciliando las utilidades del mejor servicio con las necesidades de estas reales caxas, y el fomento de aquella parte de los dominios del rey, paresca mas conveniente tomar.

Dios gu'e a V. S. S. m's a's, Nueva Orleans, 22 de Julio, de 1803.

JUAN VENTURA MORALES.

Señores D. MANUEL DE SALCEDO Y
MARQUES DE CASA CALVO.

La declaratoria que hicimos en el bando publicado en 18 de Mayo ult'o, esta fundada en el derecho de conquista, por el qual la España se apodero, y tomar de las Ingleses en la guerra del año de 80, los establecimientos de Natchez y Baton Rouge, conservando actualmente este, y por lo tanto no comprehendido en el distrito de la Luisiana, unica parte que debemos, segun nuestras instrucciones retroceder a la republica Francesa, en cuyo concepto, siendo aquellos terrenos propios de S. M., podra V. en uso de sus facultades, determinar sobre el asunto ; siendo nuestra opinion que respecto promete la solicitud de Don Juan Urquhart utilidad a los reales intereses, fomento a la poblacion y agricultura, circumstancias de entidad y digna de atencion, la primera por la escases en que se hallan en el dia estas caxas, puede ser admitida la proposicion, sin que haya motivo que preste recelo a verificar el asunto bajo las demas formalidades establecidas por la intendencia con lo que dejamos contestado el papel que se sirvio V. dirigirnos en 22 del corriente. Nuestro Señor guarde a V. m's a's.

Nueva Orleans, 28 de Julio, de 1803.

MANUEL DE SALCEDO.

El Marques de CASA CALVO,
Señor JUAN VENTURA MORALES.

Es copia de lo que queda en estos archivos de mi cargo de que certifico como secretario por S. M. de esta intendencia en virtud de decreto de esta fecha en la Nueva Orleans, a siete de Noviembre de mil ochocientos tres.

Dros recibidos. Signed, CAY'NO VALDES.

En la Nueva Orleans en siete de Noviembre de dicho año. Yo el es'no participe el decreto antecedente al Señor Fiscal de real hacienda doy fé.

Signed, XIMENES.

El fiscal de real hacienda a la vista que se le ha dado de la solicitud que hace Don Luis Decluet, sobre que de las tierras realengas que hay vacantes entre el rio Amit y la Movila, se le beneficien a nombre suyo y el de su hermano Don Alexandro, a justa tasacion quarenta mil arpanes, ofreciendo pagar un tercio de contado, otro en seis meses, y el ultimo en un año desde la fha. de la venta, dando las seguridades correspond'tes dice : que resultando utilidad al real herario se acceda á su solicitud, juzga el fiscal conveniente se adhiera a ella y que se de la orden al commandante de dicho distrito para que nombre dos habitantes expertos, que con otros dos que señalen los compradores, se proceda á la estima-

cion, ó justi precio, apeo y deslinde de los referidos quarenta mil arpanes, cuyas diligencias evacuadas con la debida solemnidad se remitan á esta tribunal para que se expida á los compradores el titulo competente baxo las condiciones que proponen. El tribunal sin embargo determinará lo que crea mas conforme á justicia que pide el fiscal.

Nueva Orleans, 9 de Noviembre, de 1803.

Signed, GILBERTO LEONARD.

NUEVA ORLEANS, 9 *Noviembre, de* 1803.

Pongase a continuacion testimonio del decreto con que se pasó a la consulta del sen. asesor del gobierna y auditor de guerra de esta provincia, el expediente promovido por Don Tomas Urquhart, sobre que se le concediesen cinquenta mil arpanes de tierra en el distrito de Baton Rouge, y del dictamen que extendio en consequencia y traigase.

Signed, MORALES.

Ante mi. Signed, CARLOS XIMENES.

En el mismo dia, yo, el essno., participé al sor. fiscal de real hacienda, el decreto antecedente, doy fee.

Signed, XIMENES.

En el mismo dia, yo, el essno., notifiqué el decreto antecedente á Don Luis Decluet, doy fee.

Signed, XIMENES.

Auto.—Vistos: Y que segun lo preventido en el articulo ochenta y uno de la real ordenanza de intendentes de Nueva España, mandado observar en esta provincia las causas sobre ventas, composiciones, y repartimientos de tierras realengas, deben substanciarse con citacion fiscal, y dictamen de los asesores ordinarios de la intendencias, no habiendolo en esta provincia por haver fallecido el señor licenciado, Don Manuel Serrano; precediendo recando politico de estilo pase este expediente al Señor Doctor Don Nicolas Maria Vidal, theniente governador y auditor de guerra de esta dha. provincia, para que si lo tiene á bien se sirva consultar lo que le ocurra. Morales. Proveyolo el Senor Don Juan Ventura Morales, contador pral. de exto. intendente interino de real hacienda de las provincias de la Luisiana y Florida occidental, subdelegado de la superintendencia gral., que lo firmo en la Nueva Orleans, a seis de Agosto, de mil ochocientos tres.

CARLOS XIMENES.

Dictamen.

Senor intendente gral: En vista de lo que han informado sobre expediente los sres. governador y Marquez de Casa Calvo, comissarios nombrados por le rey, para la entegra de esta provincia de la Luisiana á la republica Francesa, y lo expuesto por el senor fiscal de real hacienda, me parece que puede V. acceder á la solicitud de Don Thomas Urquhart, en orden á que se le vendan, cincuenta mil arpanes de las

tierras, que hay vacantes y realengas en el distrito de Baton Rouge, para formar un establecimiento de cierto numero de familias, con la calidad de satisfacer el tercio de su importe de contado, otro tercio en seis meses; y el restante al plazo de un año, dando las seguridades necesarias; y que en consequencia se mande librar para las correlativas diligencias el despacho que propone el dho. senor fiscal, en los terminos y con las formalidades que expresa. Pero con la prevencion de que las familias que hayan de cituarse en las referidas tierras, sean de la aprobacion del gobierno, y con su conocimiento, observandose las reglas prescriptas por S. M. en las reales ordenes de la materia para la admicion de nuevos colonos; vmd. sur embargo resolvera lo que jusque mas acertado y conveniente.—Nueva Orleans, neuve de Agosto, de mil ochocuentos tres.

NICHOLAS MARIA VIDAL.

Es conforme a sus originales a que me remito.—Nueva Orleans, á catorse de Noviembre de mil ochocientos tres.

(Signed) CARLOS XIMENES.

Vistos: Y ofreciendose mucha dificultad que el comandante del otro lado del lago, Don Carlos Parent, tanto por no poseer el idioma Castellano, como por su abanzada edad, pueda evacuar las diligencias necesarias ni asistir a la medida, apeo, y estimacion de quarenta mil arpanes de tierra planos que solicita comprar el capitan, Don Luis Declouet, en el parage que expresa, se comisiona al agrimensor general, Don Carlos Trudeau, para que proceda a la estimacion con las formalidades que propone el senor fiscal en su anterior representacion; debiendo extender en seguida el plano, y demas necesario, para que presidiendo el pago del valor en que fueron tazados dhos. quarenta mil arpanes de tierra planos, pueda expedirsele el titulo correspondiente.

En mdo. Poseer. Ve.

(Signed) JUAN VENTURA MORALES.

Proveyolo el Sor. Don Juan Ventura Morales, contador pral. de exto. intendente interino de la real hacienda de la provincia de la Luisiana y Florida occidental, subdelagado de la superintendencia general que lo firmo en la Nueva Orleans, á diez y seis de Noviembre, de mil ocho cientos tres. (Signed) CARLOS XIMENES.

En el mismo dia lo participe al senor fiscal de real hacienda el auto antecedente, doy fé. (Signed) XIMENES.

En el propio lo notifique al capitan Don Luis Declouet el auto antecedente, doy fé. (Signed) XIMENES.

LOUISIANA.

Recorded in the office of the clerk to the commissioner of land claims west of Pearl river and east of the Mississippi, in lib. F, No. 1, folio 389, &c.

(Signed) CHARLES S. COSBY, *Clerk.*

[For map, see original page 31.]

I, Charles Laveau Trudeau, late surveyor general of his Catholic Majesty in Louisiana, certify, at the demand of Mr. John McDonogh, of this city, that the annexed plan of survey of forty thousand arpens of land is a true copy of the original, delivered by me in the month of February, in the year one thousand eight hundred and four, at the office of the Spanish intendant, Don John Ventura Morales, in this city; that said lands lie on the west bank of the river Tauchipaho, in West Florida, beginning at the line of demarcation, and running down said river, as per plot; that said lands were surveyed, marked, and bounded, in the months of November and December, 1803, for Messrs. Lewis and Alexander De Clouet, who were then put in possession of them; the whole having been executed in conformity to the grant made them, and order of survey given by the Spanish intendant, Don John Ventura Morales; that said lands were estimated by four persons, two of whom were named by me on the part of the King, and two others on the part of the Messrs. De Clouet, at the price of three cents per superficial arpent; and that I received from Messrs. Lewis and Alexander De Clouet, in money, the full amount of my fees, as surveyor general, for surveying said lands, making plots, &c., &c.

New Orleans, September 14, 1814.

(Signed) CARLOS TRUDEAU.

LOUISIANA.

Recorded in the office of the clerk to the commissioner of land claims, west of Pearl river and east of the Mississippi, in lib. F, No. 1, fol. 428.

(Signed) CHARLES S. COSBY, *Clerk*.

(*Translation of the foregoing document marked "B, No. 1 a.")*

TO THE INTENDANT: Don Louis De Clouet, a captain of the royal armies, and commandant of the militia of Saint Barnardo, for myself, and for the captain of the militia, Don Alexander De Clouet, my lawful brother, in whose name I act, and for whom I am security, with due respect appear before you, and say, that I am informed that the royal treasury intends to sell the lands which belong to the King, and are vacant, in the district of Mobile, as far as the river Amite, and in other places, in this province; and as my said brother and myself stand in need of a certain quantity of said land, as we are land proprietors, I, in consequence, pray your excellency to grant us the sale of forty thousand arpens, at such price as it may be valued at, with the condition of paying the one-third part of the valuation in cash, one other third in six months, and the last third in one year, giving the necessary securities; I, in consequence, pray your excellency to grant this my petition, which will be considered a favor conferred on me.

New Orleans, October 24th, 1803.

(Signed) LOUIS DE CLOUET.

NEW ORLEANS, *November 7th*, 1803.

Let the secretary insert, hereinafter, a certified copy of the official letter, written by this tribunal to the commissioners, for the transfer of this province, in consequence of the application for purchasing fifty thousand arpens of land, made by Don Thomas Urquhart, as well as of the answer made by said commissioners, and after that has been done, let the matter be submitted to the fiscal.

(Signed) MORALES.

Before me.

(Signed) CARLOS XIMENES.

On the same day, I, the notary, (escribano) did notify to the Captain Don Louis De Clouet the preceding decree, which I attest.

(Signed) XIMENES.

On the same day, I, the notary, did deliver those proceedings to the secretary of the intendency, which I attest.

(Signed) XIMENES.

Though, in consequence of the declaration made by you, in the proclamation published on the 18th of May last, that in the cession of this province to the French republic, the territory which extends from the river of Iberville to the line where the American possessions begin, was not included and did not form a part of said cession, I could give course to the petition presented to me by Don Thomas Urquhart, praying that fifty thousand arpens of land, out of those which are vacant and belonging to the King, in the district of Baton Rouge, should be sold to him under the conditions proposed by him, without any apprehension on my part that the French Government would complain of it; notwithstanding, considering that this point, either on account of the connection it may have with the political principles of the State, or on account of other motives unknown to me, might occasion trouble and difficulties, and consequently it might be rather more prudent not to grant the request, than the royal treasury should obtain the advantage which might result to it by acceding to the request. I have deemed it, therefore, proper to transmit to you the said petition, in order that you may inform me of your opinion, which shall guide and enable me to take a correct decision, which, conciliating the advantages of the better service of the King with the wants of the royal coffers, and the prosperity of that part of the dominions of the King, may appear more proper. May God preserve you many years.

New Orleans, July 23d, 1803.

(Signed) JUAN VENTURA MORALES.

To Messrs. DON MANUEL DE SALCEDO and the MARQUIS DE CASA CALVO.

The declaration made by us in the proclamation published on the 18th of May last, is based on the right of conquest, by which Spain took from England, in the war of the year seventeen hundred and

eighty, the establishments of Natchez and Baton Rouge, keeping still in her power the latter, which for that reason is not included in the district of Louisiana, the only part which, conformably to our instructions, we are to retrocede to the French republic. In consequence of which the said lands being the property of his Majesty, you may by virtue of your powers act and determine on the subject; our opinion being that, as the demand of Don Thomas Urquhart promises advantage to the royal interests and encouragement to the population and agriculture, two considerations of great importance, and worthy of attention, the former on account of the actual scantiness of the royal coffers, the proposal may be accepted without any cause of apprehension in complying with the request, and agreeably to the other formalities established by your tribunal. This is our answer to the official letter which you did address to us on the 22d instant. May the Lord preserve you many years.

New Orleans, July 28th, 1803.

(Signed) MANUEL DE SALCEDO,
The Marquis de CASA CALVO.

To Don JOHN VENTURA MORALES.

The above is a true copy of the official documents in the archives under my care, which I do certify as secretary of his Majesty for this intendency, by virtue of the decree of this date. New Orleans, November 7, 1803.

(Signed) CAYETANO VALDES.

Fees received.

New Orleans, November the 7th, of the same year, I, the notary, did inform the fiscal of the royal treasury of the foregoing decree, which I attest.

(Signed) XIMENES.

The fiscal (or solicitor of the crown) of the royal treasury, in consequence of the communication made to him of the demand of Don Louis Declouet, that out of the lands belonging to the King, and which are vacant, between the river Amite and Mobile, forty thousand arpens be sold to him and his brother Don Alexander, at the price at which they shall be justly appraised, offering to pay one-third cash down, one other third in six months, and the remaining third in one year from the date of the sale, giving the necessary securities, declares and says: That whereas, in acceding to said demand, the royal treasury will be greatly benefited, he, the fiscal, considers it his duty to recommend it; and that the commanding officer of the district be ordered to appoint two estimators, inhabitants, who, together with other two appointed by the purchasers, will proceed to the appraisement, measurement, and marking of the boundaries of the said forty thousand arpens; and after that has been executed with all proper forms and becoming solemnity, let the minutes of all the proceedings be sent to this tribunal, that the necessary title may be given to the purchasers, under the conditions they

propose. The tribunal, however, will determine that which it will think most conformable to justice, which is all the fiscal desires.

New Orleans, November 9th, 1803.

(Signed) GILBERTO LEONARD.

New Orleans, November 9th, 1803.

Let a certified copy of the decree, by virtue of which the demand of Don Thomas Urquhart for purchasing fifty thousand arpens of land, in the district of Baton Rouge, was sent to the assessor for the government and the auditor of war (the grand judge) for consultation, be hereinafter inserted, as also the opinion given in consequence; and after that is done, let the whole proceedings be brought to me.

(Signed) MORALES.

Before me,

(Signed) CARLOS XIMENES.

On the same day I notified the preceding decree to the solicitor for the crown to the royal treasury, which I attest.

(Signed) XIMENES.

On the same day I notified the same to the captain, Don Louis Declouet, which I attest.

(Signed) XIMENES.

As it is prescribed by the eighty-first article of the royal ordinance for the intendants of New Spain, which ordinance is commanded to be observed in this province, touching and concerning the sales, adjustments, and distributions of lands belonging to the King, to proceed with the advice of the attorney general, and according to the opinion of the ordinary assessors of the intendant's tribunals; as there are no assessors in this province since the death of the licentiate, Don Manuel Serano, let a polite request, according to the accustomed forms in use, with a copy of those proceedings, be transmitted to the doctor, Don Nicholas Maria Vidal, lieutenant governor and auditor of war of this province, that he will have the goodness to advise that which may appear to him the most proper on the subject.

(Signed) MORALES.

The foregoing decree was issued by Don Juan Ventura Morales, contador principal of the armies, intendant pro tempore of the royal treasury of the province of Louisiana and West Florida, sub-delegate of the superintendancy general, who did sign the same at New Orleans, August the 6th, 1803.

(Signed) CARLOS XIMENES.

Opinion.—To the intendant general.—Sir: In consequence of the declaration and opinion given on the subject-matter by the governor and Marquis de Casa Calvo, commissioners appointed by the King for the transfer of this province of Louisiana to the French republic, and of what has been said by the attorney general of the royal treasury,

my opinion is, that you may accede to the demand of Don Thomas Urquhart, who prays that fifty thousand arpens of land, out of those which are vacant and belonging to the King, in the district of Baton Rouge, may be sold to him, in order to form an establishment of a certain number of families, under the condition of paying one-third cash down, one other third in six months, and the remaining third in one year, giving the necessary securities; and that, in consequence, the order proposed by the attorney general be issued for the requisite proceedings, on the terms and with the formalities expressed by said attorney general, as also under the condition that the families who are to be established on the said lands shall meet the approbation and consent of the government, and observing and complying with the rules prescribed by his Majesty in the royal orders in relation to the admission of new inhabitants. However, it is for you to determine whatever you conceive most correct and proper on this subject.

New Orleans, August 9th, 1803.

(Signed) NICHOLAS MARIA VIDAL.

The foregoing is a true copy of the originals, to which I refer.

New Orleans, November 14th, 1803.

(Signed) CARLOS XIMENES.

Seeing there will be great difficulty, inasmuch as the commanding officer of the other side of the lake, Don Carlos Parent, is not acquainted with the Spanish language, and also on account of his advanced age, in fulfilling the necessary formalities, or in being present at the measurement, marking the bounds, and appraisement of the forty thousand superficial arpens of land that the captain, Don Louis De Clouet, requests to purchase in the place mentioned by him; it is therefore given in charge to the surveyor general, Don Carlos Trudeau, to proceed to the appraisement thereof, with all the formalities proposed by the fiscal in his preceding representation, to have the plats of survey made out immediately after, together with whatever else may be necessary to be done, in order that, after effectuating the payment of the amount at which shall have been valued the said forty thousand arpens of land, a title in form may be delivered to the party.

(Signed) JUAN VENTURA MORALES.

The foregoing decree was issued by Don Juan Ventura Morales, contador, principal of the armies, intendant pro tempore of the royal treasury of the province of Louisiana and West Florida, sub-delegate of the superintendency general, who did sign the same, at New Orleans, November 16th, 1803.

(Signed) CARLOS XIMENES.

On the same day I did notify the preceding decree to the fiscal of the royal treasury, which I attest.

(Signed) XIMENES.

On the same day I did notify the same to the captain, Don Louis De Clouet, which I attest.

(Signed) XIMENES.

Louisiana: Recorded in the office of the clerk to the commissioner of land claims, west of the Pearl river, and east of the Mississippi, in lib. F, No. 1, fol. 389.

(Signed) CHARLES S. COSBY, *Clerk.*

Certificate of Chs. L. Trudeau under the plan; for the plan, see page 31 of this transcript.

Copy.

I, Charles Laveau Trudeau, late surveyor general of his Catholic Majesty in Louisiana, certify, at the demand of Mr. John McDonogh, of this city, that the annexed plan of survey of forty thousand arpens of land is a true copy of the original, delivered by me in the month of February, in the year one thousand eight hundred and four, at the office of the Spanish intendant, Don John Ventura Morales, in this city; that said lands lie on the west bank of the Tauchipaho, in West Florida, beginning at the line of demarcation, and running down said river as per plot; that said lands were surveyed, marked, and bounded in the months of November and December, 1803, for Messrs. Lewis and Alexander De Clouet, who were then put in possession of them; the whole having been executed in conformity to the grant made them and order of survey given by the Spanish intendant, Don John Ventura Morales; that said lands were estimated by four persons, two of whom were named by me on the part of the King, and two others on the part of the Messrs. De Clouet, at the price of three cents per superficial arpent; and that I received from Messrs. Lewis and Alexander De Clouet, in money, the full amount of my fees as surveyor general for surveying said land, making plots, &c., &c.

New Orleans, September 14, 1814.

(Signed) CARLOS TRUDEAU.

Louisiana: Recorded in the office of the clerk to the commissioner of land claims west of Pearl river, and east of the Mississippi, in lib. F, No. 1, fol. 428.

(Signed) CHARLES S. COSBY, *Clerk.*

Exhibit marked "B, No. 2," made part of the petition, purporting to be the ratification of the King of Spain of the titles to lands in the district of Baton Rouge and in West Florida; which exhibit is in the words and figures following, to wit:

En rl. orden de esta fecha comunicá al gobernador de esa provincia lo que sigue. El Rey se ha servido resolver en vista de la carta de V. S. de 31 de Agosto, del año pasado, No. 3, dirigida al Sor. Principe de la Paz y otra del intendente interino de esa provincia de 16 de Octubre del mismo, No. 174, relativas a la facultad de conceder y repartir tierras realengas en el distrito de su mando, cuyo privilegio entaba radicado en el gobierno politico y militar desde la real orn. de 24 de Agosto, de 1774; que por consideraciones del mejor servicio y exacto arreglo de lo

mandado en el artículo 81, de la rl. ordenanza de intendentes de Nueva España, se reintegre y sea privativo á la intendencia de esa provincia el derecho de conceder y repartir toda clase de tierras con intribicion de otra autoridad en los terminos legales que previene las leyes, debiendo quedar por consequencia derogada y suprimada la facultad que residia antes el gobierno para estas gracias, las quales seguiran en lo succesivo en cargo de la intenda. traslado a vmd. esta real resolucion para su inteligencia y respectivo cumplimiento. Dios gue. á V. ms. as. San Lorenzo, 22 de Octubre, de 1798.

SOLER.

Sor. INTENDENTE INTERINO DE LA LUISIANA.

El Rey se ha servido aprobar que vmd. haya dispuesto la venta de algunas tierras realengas en el distrito de Baton Rouge con acuerdo de los comisarios de S. M. pa. la entrega de esa provincia, y lo aviso a vmd de rl. orn. para su inteligencia en contestacion á su carta de 5 de Diciembre del año proximo pasado, No. 265. Dios gue. a vmd. ms. as. Aranjuez, 29 de Mayo, de 1804.

SOLER.

Sor. Dn. JUAN VENTURA MORALES.

Enterado el Rey de lo que vmd. expone en su carta reservada de 31 de Julio proximo pasado, No. 48, en la que da cuenta de que el comandante de la Panzacola, Don Vicente Folch, habia mandado al gobernador de Baton Rouge, que desde el dia 20 de Junio no permitiese hacer apeos de tierras sin su orden ni que se diese posecion de las vendidas por la intendencia desde el 18 de Mayo, de 1803, de lo qual se siguen los perjuicios que vmd. expresa ha resuelto S. M. que se comunique a dicho comandante como lo executo con esta fecha, lo dispuesto en las reales ordenes de 22 de Octubre, de '98, 14 de Noviembre, de '99, y 29 de Mayo, de '804; declarando por consequencia que vmd. debe continuar hasta su conclusion los expedientes que haya pendientes sobre ventas de tierras y los demas que puedan ocurrir y espera que vmd. con su notorio zelo, procura sacar de este ramo todas las ventajas posibles a favor del rl. erario. Fedo lo qual participo a vmd. de orden de S. M. para su inteligencia. Dios gue. vmd. ms. as. Aranjuez, 20 de Febrero, de 1805.

SOLER.

Sor. INTENDENTE DE LA LUISIANA.

Las tres copias que anteceden son conformes a las rl. ordenes que existen en los archivos de la secretaria de la intendencia gral. de esta provincia que esta á mi cargo de que certifico; y se saca esta en virtud de lo dispuesto por el sor. ministro encargado de los asuntos de la hacienda nacional de ella para entregar a Dn. Pedro de Alva, higo apoderado de Dn. Juan McDonogh. Panzacola, primero de Junio, de mil ocho cientos trece.

(Signed,) FRANCO. GUTIERREZ DE ARROYO.

Dn. Antonio Cabarras, ministro pral. de exto. y hacienda, primer contador de primera clase del departamento de rezagos en el tribunal superior de cuentas de la Havana, juez comisionado y encargado de todas los asuntos de la hacienda publica en esta provincia de la Florida occidental, y del despacho de la intendencia de ella.

Certifico, que la firma que antecede de Don Franco. Gutierrez de Arroyo, secretario de esta intendencia, es la que usa y acostumbra en todas sus escritos de oficio y particulares por la que se le da certera fe y credito, y para que conste doy la presente, firmada de mi mano, sellada con mi cifra, y refrendada por el mismo secretario en Panzacola, a primero de Junio, de mil ochocientos y trece.

(Signed) ANTONIO CABARRAS.
[SEAL.] FRANCO. GUTIERREZ DE ARROYO.

(*Translation of the foregoing document marked "B, No. 2."*)

By royal order of this date, I hereby communicate to the Governor of this province the following:

The King has been pleased to ordain, in view of your letter of 31st August of last year, No. 3, addressed to his Lordship the Prince de la Paix, of another from the provisional intendant of this province, dated the 16 October of the same year, No. 174, both relative to the faculty of granting and locating royal lands in the district under your jurisdiction, which privilege was before vested with the political and military government since the royal decree of the 24th August, 1774. That for the better accomplishment of, and exacter conformity to, the tenor of the 81st article of the royal ordinance relative to intendants of New Spain, the right of granting and locating all sorts of lands be reinvested with, and be proper to, the intendancy of this province, free from the interference of any other authority in the proceedings as prescribed by law; therefore remains null and void the faculty which before vested with the government in such cases, which for the future shall remain to the charge of the intendancy. I transmit to you this royal resolution for your information and its proper execution. So keep you God for many years. San Lorenzo, 22d October, 1798.

SOLER.

To the provisional intendant of Louisiana.

The King has been pleased to approve of your having disposed of the sale of certain royal lands in the district of Baton Rouge, in concert with the commissioners of his Majesty for the delivery of this province, and I do inform you thereof, by royal order, for your line of conduct in answer to your letter of the 5th December of last year, No. 265. So keep you God for many years. Aranjuez, 29th May, 1804.

SOLER.

To the Senor Don Juan Ventura Morales.

The King being apprised of the purport of your private letter of the 31st July of last year, No. 48, in which you mention the fact of the

commandant of Pensacola, Dn. Vincente Folch, having ordered to the governor of Baton Rouge not to permit, from the 20th June, any survey of land without his authorization, not to give possession of those sold by the intendancy since the 18th May, 1803, from which measure have resulted the injuries you relate. His Majesty has resolved to cause to be communicated to said commandant, as I do communicate to him by my letter of same date, the provisions of the royal decrees of the 22d October, '98; 14th November, '99; and 29th May, '804. Therefore you are to continue until final conclusion the proceedings that may be pending relative to sales of lands, and such other measures as the case requires; and, I hope that, with your well known zeal, you will get out of this branch of revenue all possible advantages in favor of the royal treasury; the whole of which I communicate to you by order of his Majesty for your direction. So keep you God for many years. Aranjuez, 20th February, 1805.

SOLER.

To the provisional intendant of Louisiana.

The three foregoing copies are conformable to the royal decrees extant in the archives of the Secretary's office of the Intendency-general of this province, now in my charge. In testimony whereof I grant these presents by virtue of the decision of the sor. minister charged with the affairs of the national domain of said province, and at the request of Dn. Pedro de Alva, jr., attorney in fact of Mr. John McDonogh.

Pensacola, the 1st of June, eighteen hundred and thirteen.

(Signed) FRANCO. GUTIERREZ DE ARROYO.

I, Dn. Antonio Cabarras, chief minister of the army and domain, first treasurer of first class of the department of liquidation in the superior tribunal of accounts of Havana, judge commissioned and charged with all the affairs of the public domain in this province of West Florida, and with those of the intendency thereof, do hereby certify, that the signature whi h precedes, is that of Dn. Franco. Gutierrez de Arroyo, secretary of this intendency, and the same which he uses in all his public and private writings, full faith and credit being given thereto. In testimony whereof I grant the present, signed by me, sealed with my cypher, and countersigned by the said secretary, at Pensacola, the 1st of June, eighteen hundred and thirteen.

(Signed) ANTONIO CABARRAS,
FRANCO. GUTIERREZ DE ARROYO.

[seal.]

Exhibit marked "B, No. 3," made part of the petition, being a certified copy of an act of deposit by John McDonogh, and act of sale by Messrs. De Clouet to John McDonogh, under date of the 19th of March, 1829; which exhibit is in the words and figures following, to wit:

Aujourd'hui le dix neuvième jour de mois de Mars, de l'année mil huit cent vingt neuf, et la cinquante troisième de l'indépendance des Etats Unis d'Amerique.

Pardevant Louis T. Caire, notaire public, dans et pour la ville et paroisse de la Nouvelle Orleans, dument commissioné et assermenté, et en présence des témoins ci-après nommés et soussignés.

Fut présent John McDonogh, demeurant en cette paroisse, lequel a présenté au notaire soussigné, et l'a requis d'enrégistrer un acte de vente sous signature privié, dont la teneur est mot-à-mot comme suit, savoir:

Je, soussigné, Louis Broguier Declouet, tant en mon nom qu'en celui de mon frère, Alexandre Declouet, dont je suis fondé de pouvoirs, en présence des témoins soussignés, déclare par le présent, ceder et transporter, sous la simple garantie de mes faits et promesses à Mr. John McDonogh, ici présent et acceptant pour lui, ses heritiers, ou ayans cause, tous les droits de quelque nature qu'ils soient que je puis avoir sur quatre vingt dix mille arpens de terre, situés sur les rivières Tauchipao et Boque Chitta, dans la Floride occidentale, en vertu des titres qui m'ont été expediés, conjointement avec mon dit frère, Alexandre Declouet, par le gouvernement Espagnol, dans l'année mil huit cent trois, lesquels titres j'ai présentement remis à mon dit Sieur McDonogh, qui reconnait les avoir reçus, et en donne décharge, ainsi que ces droits se poursuivent et comportent, sans en rien excepter ni réserver, pour en jouir faire et disposer par Mr. John McDonogh, comme bon lui semblera, et comme de chose lui apparten nt en pleine propriété, à l'effet de quoi je le mets et subroge sans autre garantie que celle cy-dessus exprimé dans tous mes noms et actions à ce sujet. Ce transport est fait moyennant la somme de quinze mille de piastres que je reconnais avoir reçue de mon dit Sieur McDonogh, en billets à ma satisfaction, et dont je lui donne bonne et valable quittance et décharge. Au moyen du présent Mr. McDonogh pourra retirer des mains de qui il appartiendra, tous titres, pieces, et papiers, concernant les dits quatre-vingt-dix mille arpens de terre, ou s'en faire aider de la même manière que j'en eusse eu le droit.

Fait double et de bonne foi à la terre aux Bœuf, paroisse St. Bernard, le six Mars de l'année mil huit cent six.

(Signé) B. DECLOUET.
" JOHN McDONOGH.
" LANDON, témoin.
LES FAGOT, témoin.

Aux présentes sont intervenus Messrs. Valery, Jean Delassise, Eugine Sommereau, et Louis de Ferriet, propriétaires demeurant en cette ville de la Nouvelle Orleans. Personnes de moi bien connues, et dignes de foi, lesquels après avoir été dument et séparément assermenté par le notaire soussigné, avoir pris lecture de l'acte original ci-dessus enregistré, et avoir attentivement examiné les signatures, nous ont déclaré que la signature de B. Declouet, qui est apposée au bas du dit acte sous seing privé est bien celle de Mr. Broguier Declouet, qu'elle leur est bien connue, et qu'ils font cette déclaration pour servir et valoir ce que de droit.

Et le dit act sous signature privée certifié sincère et veritable par le

sieur comparant, après avoir été revêtu du certificat d'enregistrement du notaire soussigné, et scellé du sceau de son office a été remis au dit Sieur McDonogh, qui reconnoit et en consent décharge.

Dont acte: Fait et passé en l'étude à la Nouvelle Orleans, les jour, mois, et an que dessus, en présence de Sieurs Charles Darcantel et José Antonio Bermudez, temoins à ce requis et domiciliés en cette ville, lesqueles ont signé avec les parties comparantes et moi, notaire, après lecture faite.

(Signé) JOHN McDONOGH.
" DELASSISE.
" LOUIS DE FERRIET.
" J. ANT. BERMUDEZ.
" CHARLES DARCANTEL.
" LOUIS T. CAIRE, *Not. Pub.*

Pour copie conforme à l'original resté en mon étude pour recours. En foi de quoi j'ai signé les présentes, et y ai apposé le sceau de mon office. Nouvelle Orleans, le 13 Mai, 1846.

[SEAL.] LOUIS T. CAIRE, *Not. Pub.*

Translation of the foregoing document marked "B, No. 3."

On the nineteenth day of March, in the year eighteen hundred and twenty-nine, and fifty-third of the independence of the United States of America, before Louis T. Caire, notary public, in and for the city and parish of New Orleans, duly commissioned and sworn, and in presence of the witnesses hereinafter named and undersigned, appeared John McDonogh, residing in this parish, who produced to the undersigned notary, with a request to record the same, a certain act under private signature, the tenor of which is, word for word, as follows, to wit:

I, the undersigned, Louis Broguier De Clouet, as well in my name as in that of my brother, Alexander De Clouet, of whom I am the attorney, in presence of the undersigned witnesses, declare, by these presents, to cede and transfer, under the guarantee of my acts and promises only unto Mr. John McDonogh, here present and accepting for himself, his heirs and assigns, all the rights, of whatever nature, which I may have on ninety thousand arpens of land, situated on the rivers Tauchipao and Boque Chitta, in western Florida, by virtue of the titles which have been granted to me conjointly with my said brother, Alexander De Clouet, by the Spanish Government, in the year eighteen hundred and three; which said titles have been by me delivered to the said McDonogh, who acknowledges the same, and grants acquittance thereof; the said rights being sold, as they are without any exception or reserve whatever, to be enjoyed and disposed of by the said John McDonogh, as he shall think fit, and as property to him in full right, hereby subrogating him, without any other guarantee than that above expressed, to all my rights and actions in relation thereto. This transfer is made for and in consideration of the sum of fifteen thousand dollars, in notes to my satisfaction, which I acknowledge to have received. By reason of the present transfer, Mr. McDonogh is author-

ized to claim from any persons whomsoever all the titles and papers concerning the said ninety thousand arpens of land in the same manner as I myself could do.

Done in duplicate and in good faith, at "Terre aux Bœufs," parish of St. Bernard, the sixth of March, in the year eighteen hundred and six.

Signed, B. DE CLOUET,
Signed, JOHN McDONOGH.
Signed, LANDON, witness.
W. FAGOT, witness.

To this act intervened Messrs. Valery Jean Dalassize, Eugine Sommereau, and Louis De Ferriet, proprietors, residing in this city of New Orleans, of the notary well known and worthy of faith, who, after having been duly and severally sworn by me, the undersigned notary, after having read the original act, of which the above is a record, and after having carefully examined the signatures, declared that the signature of B. De Clouet, which is thereto subscribed, is that of Mr. Broguier De Clouet; that the said signature is well known to them; and that the present declaration is made by them to serve as need may require.

And after having certified the said act under private signature by the appearer as true and sincere, and clothed the same with the certificate of record by the undersigned notary together with the impress of his seal of office, it was returned to the said McDonogh, who acknowledges the receipt thereof.

Done and passed in my office, at New Orleans, the day, month, and year aforesaid, in presence of Charles Darcantel and Jose Antonio Bermudez, witnesses, expressly required and domiciliated in this city, who have signed with the appearers and me, notary, after reading of the whole.

(Signed,) JOHN McDONOGH,
DELASSISE,
LOUIS DE FERRIET,
E. SOMMEREAU.

J. ANTONIO BERMUDEZ,
CHARLES DARCANTEL.

LOUIS T. CAIRE, *Not. Pub.*

A true copy of the original deposited in my office for reference. In faith whereof I have signed these presents and affixed my seal of office.

New Orleans, 13th May, 1846.

[SEAL.] (Signed,) LOUIS T. CAIRE,
Notary Public.

And afterwards, at the said May term of this court, to wit, on the 8th of June, 1846, the following citation in chancery was issued in this case:

261.

United States district court, sitting in and for the district of Louisiana, to the marshal for the district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon S. W. Downs, U. S. district attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the district of Louisiana, at a district court to be holden at New Orleans, on the first Monday of July, 1846, then and there to answer a petition in chancery filed against the United States, wherein John McDonogh is petitioner, and the United States is defendant.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable T. H. McCaleb, judge, this 8th day of June, New Orleans, 1846, and 70th year of American independence.

[SEAL.] (Signed,) N. R. JENNINGS, *Clerk*,
By L. E. SIMONDS, *D'y Cl'k*.

MEM. The defendant is to enter an appearance in the above cause, in the clerk's office, on or before the first Monday of July, 1846, otherwise the petition may be taken pro confesso.

Marshal's return on the foregoing citation.

Received this 10th day of June, 1846, and on the same day I served copies of the within citation, plaintiff's petition and documents annexed, on the within named the United States, in the manner following, to wit, by handing copies to S. W. Downs, district attorney, in person at New Orleans.

(Signed,) For WM. F. WAGNER, *U. S. marshal*,
J. H. RINEHART, *D'y U. S. marshal*.

And further, at the same term, to wit, on the 5th of November, 1846, the following answer of the defendants was filed of record in this case:

JOHN MCDONOGH vs. THE UNITED STATES. } No. 24.

In the district court of the United States, for the district of Louisiana.

The defendants now come, and for answer deny all and singular the facts and allegations in plaintiff's petition contained.

Wherefore they pray that said petition may be dismissed at plaintiff's costs.

(Signed,) THOMAS J. DURANT, *Attorney*.

And afterwards, at the December term, 1846, to wit, on the 11th of February, 1847, the following entry was made of record in this case:

JOHN MCDONOGH vs. THE UNITED STATES. } 24.

This cause being this day fixed for trial, was upon motion of the

United States district attorney, the court being engaged in other business, continued until further notice.

And afterwards, at the February term of this court, to wit, on the 9th day of March, 1849, the plaintiff appeared and filed the following replication:

JOHN McDONOGH vs. THE UNITED STATES. } No. 24.

District court, U. S., Louisiana district.

The replication of John McDonogh, complainant, to the answer of the United States, defendants: This repliant, reserving all benefit of exception, &c., saith, that he doth maintain and will prove his bill to be true and sufficient in law, and that the answer of the defendants is insufficient, as this honorable court may require, and prays as he hath prayed in his bill.

(Signed,) A. HENNEN & C. ROSELIUS,
Solicitors.

And further, at the same term and date, the following entry was made of record in this case, to wit:

JOHN McDONOGH vs. THE UNITED STATES. } 24.

This cause was now called up for hearing, Hennen and Roselius, esq., for the plaintiff, and the U. S. district attorney for the defendants, appearing. Evidence was adduced and argument partly heard, when the further trial of the cause was continued until to-morrow, the 10th inst.

Evidence offered by the complainant.

Exhibit marked "B, No. 1," already copied from page 4 to 14 of this transcript.

Exhibit marked "B, No. 1, a," already copied from page 23 to page 32 of this transcript.

Exhibit marked "B, No. 2," already copied from page 42 to page 44 of this transcript.

Exhibit marked "B, No. 3," already copied from page 47 to page 50 of this transcript.

All admitted by the court subject to the exceptions raised by the defendants as to their admissibility as evidence.

2o. The plaintiff offered in evidence, the following deposition of Louis Bouligny, as to signatures to documents B, No. 1, and B, No. 2.

JOHN McDONOGH vs. The UNITED STATES. } 24.

Friday, March 9, 1849. Testimony taken in open court on the trial.

Louis Bouligny, esq., sworn: On being shewn doc. marked B, No.

1, grant of 50,000 arpents, &c., annexed to petition, deposes that the signatures of Juan Ventura Morales, Carlos Ximenes, and Carlos Trudeau thereto attached, are genuine signatures; witness being well acquainted with their signatures, has no doubt of the genuineness of the present.

Grant of 40,000 arpents, Doc. B, (No. 2,)—deposes that the signatures of Luis De Clouet, first therein appearing, is genuine; and that that portion of said document preceding said signature is in the handwriting of witnesses eldest brother. Further, that the signatures of Carlos Ximenes, 3 signatures of Cayetano Valdes, Ximenes, Gilberto Leonard, Morales, Carlos Ximenes, Ximenes, Ximenes, Carlos Ximenes, Juan Ventura Morales, Carlos Ximenes, Ximenes, Ximenes, and Carlos Trudeau, next therein successively found, are all the genuine signatures of the parties by whom purporting to have been made; witness being well acquainted with their signatures, has no doubt of the genuineness of the present.

No cross examination.

(Signed) L. BOULIGNY.
Attest: ROBT. M. LUSHER,
Dep'y Clerk.

And further, at the same time, to wit, on the 10th of March, 1849, the following entry was made of record in this case:

JOHN McDONOGH
vs. } 24.
The UNITED STATES.

Alfred Hennen, esq., solicitor for the complainant, and the U. S. district attorney for the defendant appearing, the argument herein was this day concluded and the cause submitted to the court.

And further, at the same term, to wit, on the 15th of March, 1849, the following judgment was rendered and entered of record in this case:

JOHN McDONOGH
vs. } 24.
The UNITED STATES.

Present, hon. Theo. H. McCaleb.

This cause came on for hearing at the present term, to wit, on the ninth day of March, 1849, on the petition, answer, replication, exhibits, and proof of record, and was argued by counsel for the complainant, and the district attorney of the United States for the defendants; and the court being duly advised in the premises and having fully considered the case, on this day rendered its opinion and decree as follows:

The petitioner claims the quantity of ninety thousand (90,000) superficial arpents of land in controversy, by virtue of a purchase of the same from the Spanish government, by Louis De Clouet and Alexander De Clouet, the one a commandant of the militia of St. Bernard, and the other a captain of militia, and both residents and inhabitants of the province of Louisiana.

The proceedings to effect the purchase were commenced on the 24th of October, 1803, and on the 15th and 16th of November, 1803, the grants of the intendant general, Juan Ventura Morales, were made, ordering the title in form to be granted. The survey of the land was made by Carlos Trudeau, surveyor general of the province, according to his two several certificates, or his plans of survey annexed to the petition.

The signatures of the Spanish officers who issued the concession, and signed the proceedings in relation thereto, have been proved to be genuine by Louis Boligny, a living witness examined in this case.

The petitioner who has acquired title to the lands aforesaid, by regular conveyance from the original grantees, duly presented his claim therefor to the commissioners of land claims west of Pearl river, and east of the Mississippi; and it was recorded as claim No. 144 and 145, 3d vol., page 59, of the American State papers, where it is stated that the estimated value of the land had been paid, and the surveys thereof made in 1803, by C. Trudeau.

For the reasons given at length in the case of Joseph Reynes against the United States, (No. 10 of the docket,) the court is of the opinion that the petitioner, John McDonogh, has a valid claim to the tracts of land claimed by him; that his claim is guaranteed by the treaty of cession of Louisiana to the United States and the law of nations, and that he is entitled to the relief granted by the act of Congress, approved the 17th day of June, 1844, entitled, "an act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama, south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers," and the act approved on the 26th of May, 1824, to which it refers, entitled, "an act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims.

It is therefore ordered, adjudged, and decreed, that the grants made by the Spanish government to Louis De Clouet and Alexander De Clouet as aforesaid, are valid against the United States, and that the lands described in the said grants, and the two surveys by the surveyor general, Carlos Trudeau, of record herein as part of the exhibits, containing ninety thousand (90,000) superficial arpents, more or less, according to and with the metes and bounds as described in the said two surveys, and to be located and surveyed conformably thereto, belong to the petitioner holding under the original grantees, citizens and residents of the province of Louisiana.

And whereas it is well ascertained that a great part of said tracts of land is now held by titles emanating from the United States, it is further ordered, adjudged, and decreed that, for the land within said limits so held, and which has been sold or otherwise disposed of by the United States, the claimant shall be, and he is hereby, authorized to enter, after the same shall have been offered at public sale, the like quantity of land in parcels conformable to sectional divisions and subdivisions,

in any land office of the United States in the State of Louisiana; and if it should so happen that, in making such entries, there should remain in the hands of the enterer a fractional excess of acres of a less number than the smallest sectional divi[sion] authorized by law to be sold, the party interested shall have the right to enter, in virtue of such fractional excess, the quantity of one-half quarter section of land upon paying one dollar and twenty-five cents for each acre contained in such half quarter section over and above the fractional excess to which he may be entitled by such confirmation.

Judgment rendered May 15th, 1849.

Judgment signed May 19th, 1849.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And further, at the same term, to wit, on the 19th of May, 1849, the following motion and order of appeal were entered of record in this case:

JOHN McDONOGH vs. THE UNITED STATES. } 24.

Be it remembered, that on this 19th day of May, in the year one thousand eight hundred and forty-nine, at the February term of this court, comes, in his own proper person, Thomas J. Durant, esq., attorney of the United States, for the eastern district of Louisiana, and gives the court here to understand and be informed, that the United [States] are injured and aggrieved by the judgment of this honorable court rendered against them at this term, in the matter of John McDonogh versus the United States, and desire to appeal therefrom.

It is thereupon ordered by the court that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States, at the next term thereof after the date of this order.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States sitting in New Orleans in and for said district, do hereby certify, that the foregoing sixty folios (2 plans of survey on folios 12 and 31) and (61st) eighteen lines contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein John McDonogh is plaintiff (claim B, 90,000 arpents) and the United States of America are defendants. No. 24 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the [L. S.] seal of said court, at the city of New Orleans, this twenty-fourth day of September, one thousand eight hundred and forty-nine, and seventy-fourth year of American independence.

N. R. JENNINGS,
Clerk U. S. District court, eastern dist. of Louisiana.